

United States District Court
for the
Western District of New York

United States of America)

v.)

MATTHEW D. LINCOLN)

Defendant

Case No. 18-MJ-4010

AMENDED CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

Between on or about the date of December 26, 2017 through February 15, 2018 in the county of Monroe in the Western District of New York, the defendant violated 18 U.S.C. § 2422(b), an offense described as follows:

the defendant knowingly, using a facility or means of interstate or foreign commerce, attempted to persuade, induce, entice or coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).

This criminal complaint is based on these facts:

X Continued on the attached sheet.

Please see attached affidavit

Christopher Toscano

Complainant's signature

Christopher Toscano, Task Force Officer FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: 2/16/18

Marian W. Payson

Judge's signature

City and State: Rochester, New York

Hon. Marian W. Payson, U.S. Magistrate Judge

Printed name and title

**AFFIDAVIT IN SUPPORT
OF AN AMENDED CRIMINAL COMPLAINT**

STATE OF NEW YORK)
COUNTY OF MONROE)
CITY OF ROCHESTER)

I, Christopher Toscano, being duly sworn, depose and state the following:

I. INTRODUCTION

1. I am employed as a Deputy with the Monroe County Sheriff's Office. I have been employed by the Monroe County Sheriff's Office since 2012. I am currently assigned as a Task Force Officer with the FBI-Rochester where I am a member of the Child Exploitation Task Force (CETF) and have been so since March, 2017. As part of my daily duties as a Task Force Officer with the FBI, I investigate crimes involving child exploitation and child pornography including violations pertaining to the transportation, production, distribution, receipt and possession of child pornography, as well as coercion and enticement in violation of Title 18, United States Code, Sections 2251, 2252 and 2252A and 2422. I have received specialized training in the area of child pornography and child exploitation, and I have had the opportunity to participate in child exploitation investigations.
2. I make this affidavit in support of an amended criminal complaint charging **MATTHEW D. LINCOLN** of Henrietta, New York, with violating Title 18, United States Code, Section 2422(b) related to online enticement of a minor.
3. The statements contained in this affidavit are based upon my investigation, information provided to me by other law enforcement personnel, and on my experience and training as a Deputy and as a Task Force Officer with the FBI. Because this affidavit is being submitted for the limited purpose of securing an amended criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that **MATTHEW D. LINCOLN** did knowingly violate Title 18, United States Code, Section 2422(b).

II. BACKGROUND

4. On December 26, 2017, Brighton Police Department took a report from Cooperating Witness 1 (CW1) involving inappropriate text messages that he received from the phone number "585-750-7123". CW1 indicated that he began the dialog with this individual because his daughter who is 11 years old had received messages from this number. During the dialog, CW1 received a photo from the number "585-750-7123" of an adult Caucasian male wearing a Buffalo Bills polo shirt and holding a cell phone. The picture was cropped and only depicted half of the males face.

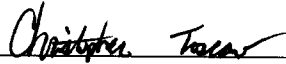
III. THE INVESTIGATION

5. On February 1, 2018, an undercover agent (UC1) with the Brighton Police Department sent a text message to cell phone number "585-750-7123", which was later identified as belonging to MATTHEW LINCOLN, utilizing an undercover phone supplied by your affiant. UC1 utilized the undercover name Ally when engaging in conversation with LINCOLN. Ally's text read "Morgan its Ally my parents took my phone away again so im using my old Ipod at schl Can you help me with this math shit during lunch tomrow ☺ ☺ plz". LINCOLN's first response back was "Sorry, you have the wrong number. This is matt". Ally then responded with "Sorry Matt, Do I know you?" in which LINCOLN responded with "idk What's your name?". Ally responded by saying "Ally can't talk now" in which LINCOLN responded by saying "ok" "Shoot me a message when you want if you want to".
6. Several text messages between Ally and LINCOLN continued over the course of approximately 15 days. Over the course of those communications, Ally clearly identified herself as being 16 years old. LINCOLN acknowledged Ally's age, indicated he did not care. Further conversations ensued in which LINCOLN engaged in sexually explicit conversations with Ally.
7. During this same time period, LINCOLN requested photos of Ally. In response, UC1 sent a copy of a known undercover photo to the defendant showing a clothed female. LINCOLN then requested additional photos of Ally showing her body. In subsequent text conversations, LINCOLN would frequently ask what Ally was wearing, specifically asking about her underwear.
8. During the text conversations, LINCOLN sent several photos to Ally. Some of the photographs depicted the defendant, clothed. LINCOLN also sent photos of an erect penis to Ally.
9. On February 14, 2018, LINCOLN suggested that he meet up with Ally. During that conversation LINCOLN stated "Cool. So you must travel all over the place. Does that mean you are coming over tomorrow?" to which Ally responds with "Maybe". LINCOLN then states "You are such a tease. What time you thinking?" When asked what LINCOLN would do to Ally, LINCOLN stated "Well I am going start with some making out and foreplay while I getyou undressed. Then I am going to eat your pussy out, fucking youin a few different positions, and have you suck me off too with some depthroating.i would not mind giving you anal if you end up ok with it. That way I would fuck all 3 of your holes".
10. During this conversation, LINCOLN sent a photo of himself to Ally which depicted the defendant naked, exposing his penis. The photo appears to be taken in a kitchen. Law enforcement subsequently identified the location to be the kitchen of LINCOLN'S apartment at 400 Clay Road, Henrietta.

11. Ally agreed to meet LINCOLN in person on February 15, 2018 at Jay's Diner, located in Brighton, within the Western District of New York.
12. On February 15, 2018 Ally stated to LINCOLN "Morning ☺ I'm here inside!!" in which LINCOLN responded by stating "Ok. At jays?". Ally then stated "Yes." LINCOLN stated "Ok. Give me about 10 minutes. Getting changed right now". At approximately 7:30 a.m. two undercover police officers in undercover vehicles responded to LINCOLN'S residence and observed his vehicle in the parking lot. At approximately 9:08 a.m. the undercover police officers observed LINCOLN get into his vehicle and they followed LINCOLN from his apartment to Jay's Diner. LINCOLN then parked his vehicle in the parking lot of Jay's Diner and proceeded inside. LINCOLN was then taken into custody by Brighton Police Department and transported back to their headquarters.
13. After being advised of his Miranda warnings and subsequently waiving them, LINCOLN agreed to speak with law enforcement. During that recorded statement, LINCOLN admitted engaging in chats with Ally. He further admitted that he was the one who sent the photos of himself to her. LINCOLN indicated that on Wednesday (2/14/18) he went to Walmart and purchased a teddy bear, a box of chocolates and a card to give to Ally.
14. It is a Class E Felony criminal offense in the State of New York for a person over twenty-one years of age to engage in sexual intercourse with a person under seventeen years of age, specifically, a violation of New York State Penal Law: Section 130.25 (Rape in the third degree).
15. The texts and chats between LINCOLN and Ally occurred online using cellphones which were manufactured outside the State of New York.
16. MATTHEW LINCOLN was born in 1980.

CONCLUSION

WHEREFORE, based on the foregoing, I respectfully submit that there is probable cause to believe that MATTHEW LINCOLN knowingly, using a facility or means of interstate or foreign commerce, attempted to persuade, induce, entice or coerce an individual who had not attained the age of 18 years, to engage in sexual activity for which any person can be charged with a criminal offense, in violation of Title 18, United States Code, Section 2422(b).



Christopher Toscano,
Task Force Officer
Federal Bureau of Investigations

Sworn to and subscribed
before me this 16 day of
February, 2018.



HONORABLE MARIAN W. PAYSON
UNITED STATES MAGISTRATE JUDGE